

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

**IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION**

Master File No. CV-07-5944 SC
MDL No. 1917

This Document Relates To:

ALL INDIRECT PURCHASER ACTIONS
ALL DIRECT PURCHASER ACTIONS

**STIPULATION AND [PROPOSED]
ORDER RE REMOTE DEPOSITION
PROTOCOL**

1 Direct Purchaser Plaintiffs (“DPPs”), Indirect Purchaser Plaintiffs (“IPPs”) (together,
 2 “Plaintiffs”), and Defendants Irico Group Corporation and Irico Display Devices Co., Ltd.
 3 (“Irico” or the “Irico Defendants”), by and through the undersigned counsel and pursuant to Civil
 4 Local Rule 7-12, hereby stipulate as follows:

5 WHEREAS, the Court’s Order re Discovery and Case Management Protocol (ECF No.
 6 1128) (“Deposition Protocol”) governs many aspects of depositions taken in the above-captioned
 7 actions but does not contemplate deposition to be taken remotely by videoconference;

8 WHEREAS, Plaintiffs have noticed the deposition of Irico witnesses for deposition in the
 9 Northern District of California in accordance with section VI of the Deposition Protocol;

10 WHEREAS, Irico has represented that due to the COVID-19 pandemic it is unable to
 11 produce its witnesses for deposition in the United States;

12 WHEREAS, Irico has agreed to produce its witnesses remotely by videoconference from
 13 Macau, *see* ECF Nos. 5980, 5999, 6056;

14 WHEREAS, section II of the Deposition Protocol provides that “[a]ll deposition
 15 limitations may be modified for good cause or by agreement”;

16 IT IS HEREBY STIPULATED AND AGREED by and between counsel for Plaintiffs and
 17 the Irico Defendants that the following protocol shall apply to all videoconference depositions in
 18 the above-captioned actions, unless otherwise agreed to by the parties or ordered by the Court:

19 1. Any videoconference deposition taken in this action must comply with the
 20 requirements of Fed. R. Civ. P. 30(b)(5). This includes the requirements that (1) “[u]nless the
 21 parties stipulate otherwise, a deposition must be conducted before an officer appointed or
 22 designated under Rule 28,” and (2) the officer must administer the oath or affirmation to the
 23 deponent. A videoconference deposition taken pursuant to this Order will be deemed to have been
 24 taken before an appropriate officer despite the court reporter not being in the same physical
 25 location as the witness, as long as the court reporter attends the deposition by the same remote
 26 means as the other participants and is able to hear and communicate with other attendees. The
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1 witness may be sworn in remotely with the same effect as an oath administered in person and the
2 parties waive any challenge of the validity of such oath for any reason.

3 2. At least 5 days before the deposition, the company that will host and record the
4 videoconference deposition (the “Remote Deposition Vendor”) shall provide a description of how
5 those attending may access the remote connection being utilized (e.g., GoToMeeting, Zoom,
6 WebEx) and how to mark and view documents entered as Exhibits during the deposition. The
7 party representing the witness must provide the witness and any interpreter with detailed
8 instructions regarding how to participate in the videoconference deposition at least 3 business
9 days before the deposition.

10 3. To host a videoconference deposition, a Remote Deposition Vendor must have
11 implemented adequate security measures to ensure the confidentiality of the remote deposition
12 (e.g., video and audio feeds, exhibits). These security measures must include password protection
13 and tools such as a “virtual waiting room” that allows the court reporter to admit only individuals
14 authorized to attend the deposition.

15 4. Before the videoconference deposition is scheduled to start, the witness, counsel
16 for the witness, and the Remote Deposition Vendor shall conduct a test of the system, equipment,
17 and internet connection that will be used to conduct the remote deposition (the “Remote
18 Deposition Technology”). The witness and counsel understand that the witness must have the
19 necessary computer equipment and remote connection software as well as an internet connection
20 with a minimum speed of 10 Mbs for upload and 20 Mbs for download, and shall use their best
21 efforts to do so.

22 5. At the time of the deposition, the witness must advise the court reporter of his or
23 her physical location. The witness shall make best efforts to participate in the deposition from a
24 quiet, well-lit, indoor location, while seated in front of a neutral background, and facing the
25 camera being used to record the witness. Other than the applications required to conduct the
26 deposition, the witness shall not have any other applications open or running on the electronic
27 device being used for the deposition.
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1 6. The microphones and video feeds for Participating Attendees (the witness, the
2 court reporter, the attorney taking the deposition, the attorney defending the deposition, and any
3 interpreters) must remain on when the deposition is on the record. Other remote attendees shall
4 mute microphones when not speaking. The Remote Deposition Technology must be able to show
5 in real-time a list of all persons attending the videoconference deposition. The cameras of
6 Participating Attendees shall remain on at all times during the deposition. Only individuals who
7 would be entitled to attend a live deposition in this litigation may participate in or observe the
8 remote deposition, including the Special Master appointed to hear discovery matters in the above-
9 captioned actions in order to address any disputes arising in the course of the deposition.

10 7. All individuals participating in or observing any deposition must announce
11 themselves for the record.

12 8. Only the witness's counsel is permitted to be in the same physical location as the
13 witness during a videoconference deposition. No other individuals are permitted to be in the same
14 room as the witness during the deposition. If the witness's counsel intends to be in the same
15 physical location as the witness during the deposition, they must provide notice to counsel for the
16 noticing party prior to the start of the deposition. If the witness's counsel or in-house counsel is
17 present in the same physical location as the witness during a videoconference deposition, such
18 counsel shall separately log in to the remote deposition platform so that all deposition participants
19 can both see and hear such counsel but may mute his or her audio if leaving audio on causes
20 feedback or other issues due to proximity to the witness's microphone. If any person enters the
21 room where the witness is located during the deposition, other than the witness's counsel, the
22 witness shall immediately notify the examining attorney of the presence of additional persons in
23 the room.

24 9. A videographer employed by the Remote Deposition Vendor will record the
25 witness's deposition testimony by reasonable technological means, including remote video
26 capture/recording. The video recording of the deposition may only be suspended during the
27 deposition upon stipulation by counsel conducting and defending the deposition. With the
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1 exception of the videographer, the deposition may not otherwise be recorded electronically
2 without the consent of the parties. The videographer must only record (1) the audio and video of
3 the witness's testimony; (2) the video of any documents being displayed or annotated for the
4 witness during the deposition; and (3) the audio of the questioning and defending attorneys. The
5 fact that a deposition was noticed to take place remotely, and was recorded remotely, will not, by
6 itself, be a basis for preventing the videoconference deposition from being admitted at trial with
7 the same effect as a deposition video that was recorded in-person.

8 10. Exhibits introduced at any videoconference deposition shall include a certified
9 English translation in addition to the original document if the original language of the exhibit is
10 anything other than English. The examining party may utilize electronic exhibits in connection
11 with a deposition so long as the examining party arranges for the technology to permit the
12 presentment of the electronic exhibits at the deposition to the witness and counsel. The Remote
13 Deposition Vendor shall make available to all counsel a platform that allows downloading the
14 exhibits after the exhibits have been marked and entered into the record during the deposition.

15 11. The Remote Deposition Vendor shall make available a platform such that the
16 witnesses and counsel shall have the ability to review all electronic exhibits in their entirety after
17 they have been marked and entered into the record and refer back to previously-introduced
18 exhibits at any time during the deposition. The complete exhibit entered into the record shall be
19 available to the witness and all participating counsel to review regardless of whether the
20 examining party displays only certain pages of the document on any platform display. The
21 witnesses shall have the independent ability and be afforded reasonable time to manipulate the
22 exhibit (scrolling, etc.) to facilitate their review. In other words, neither a witness nor any counsel
23 participating in the videoconference deposition shall be limited during the course of the
24 examination to only those portions of an electronic exhibit that examining counsel focuses on
25 and/or displays via an electronic platform display.

26 12. During the deposition examination, no person is permitted to communicate with
27 the witness by any means not recorded in the same manner as the deposition itself (e.g., no text or
28 email exchanges with the witness). All private chat features on the remote connection being

utilized shall be disabled. All applications on the witnesses' device other than the applications being utilized to conduct the deposition shall be closed and shall remain closed during the entirety of the deposition. No witness shall communicate with any person (verbally, in writing, or by conduct) while on the record at the deposition in a manner that the examining attorney cannot personally observe through the videoconference technology, and the witness may be asked to certify, on the record, that no such conversations have taken place. However, the witness's counsel may communicate with the witness telephonically or by other electronic means (including, but not limited to, the use of the remote connection software, if available) during breaks in the deposition, consistent with the Federal Rule of Civil Procedure and the Local Rules of the Northern District of California.

13. All witnesses shall testify on the record that they do not have any notes or documents available to them while testimony is being recorded, other than any that are disclosed and provided to all parties.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

HONORABLE JON S. TIGAR
UNITED STATES DISTRICT JUDGE

1 Dated: August 29, 2022

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3 /s/ Mario N. Alioto

4 Mario N. Alioto (56433)
5 Joseph M. Patane (72202)
6 Lauren C. Capurro (241151)
7 TRUMP, ALIOTO, TRUMP & PRESCOTT
8 LLP
9 2280 Union Street
10 San Francisco, CA 94123
11 Telephone: 415-563-7200
12 Facsimile: 415- 346-0679
13 Email: malioto@tatp.com
14 jpatane@tatp.com
15 lauren russell@tatp.com

16 *Lead Counsel for the*
17 *Indirect Purchaser Plaintiffs*

18
19 /s/ R. Alexander Saveri

20 R. Alexander Saveri (173102)
21 Geoffrey C. Rushing (126910)
22 Matthew D. Heaphy (227224)
23 SAVERI & SAVERI, INC.
24 706 Sansome Street
25 San Francisco, CA 94111
26 Telephone: (415) 217-6810
27 Facsimile: (415) 217-6813

28 *Lead Counsel for Direct Purchaser Plaintiffs*

/s/ John M. Taladay

John M. Taladay (*pro hac vice*)
Evan J. Werbel (*pro hac vice*)
Thomas E. Carter (*pro hac vice*)
Andrew L. Lucarelli (*pro hac vice*)
BAKER BOTTS LLP
700 K Street, N.W.
Washington, D.C. 20001
(202) 639-7700
(202) 639-7890 (fax)
Email: john.taladay@bakerbotts.com
evan.werbel@bakerbotts.com
tom.carter@bakerbotts.com
drew.lucarelli@bakerbotts.com

*Attorneys for Defendants Irico Group Corp.
and Irico Display Devices Co., Ltd.*